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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,140	04/24/2001	Damien Kessler	PU010005	6046

7590 12/27/2006  
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EXAMINER
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CZEKAJ, DAVID J

ART UNIT	PAPER NUMBER
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2621

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/27/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/841,140	KESSLER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dave Czekaj	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/27/06 has been entered.

### ***Response to Arguments***

On page 11, applicant argues that Chen fails to disclose low and high definition data streams. While the applicant's points are understood, the examiner respectfully disagrees. The examiner relied upon Desai, not Chen, to show the higher and lower definition data streams, in which Desai discloses in column 4, lines 1-15. Therefore the rejection has been maintained.

On page 11, applicant argues that only dependant claims 3 and 10 include the upconverting and therefore the examiner has not pointed out anything which is even relevant to claims 9, 10, 16-18, and 20. While the applicant's points are understood, the examiner respectfully disagrees. Sakamoto was brought in to teach the upconverting limitations in claims 3 and 10. The subsequent rejections all point to different portions of Sakamoto relevant to the limitations of those claims. Therefore the rejection has been maintained.

On page 12, applicant argues that Sakamoto fails to disclose the two video programs. While the applicant's points are understood, the examiner respectfully disagrees. The examiner relied upon Desai, not Sakamoto, to show the two programs, in which Desai discloses in column 4, lines 1-15. Therefore the rejection has been maintained.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-8, 11-15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desai et al. (6034746), (hereinafter referred to as "Desai") in view of Chen et al. (5917830), (hereinafter referred to as "Chen").

Regarding claims 1-2 and 19, Desai discloses an apparatus that relates to information handling systems (Desai: column 1, lines 6-9). This apparatus comprises "receiving encoded data representing a first video program having a first resolution" (Desai: column 4, lines 1-5, wherein the first video program is the data stream), "receiving encoded data representing a second video program of a second resolution lower than the first resolution" (Desai: column 4, lines 5-12, wherein the second video program is the commercial), "generating transmission identification information for signaling a transition from the first display program to the second display program" (Desai: column 5, lines 1-10, wherein the

identification information is the commercial insert points), "incorporating the first and second video program and identification information into packetized data" (Desai: column 4, lines 23-29, wherein the packetized data is the program stream), and "providing the packetized data for output to a transmission channel" (Desai: figure 1, wherein the packetized data is output over the network. The examiner further notes that it is well known within the MPEG environment to employ a buffer with sufficient video data to match the switching points (Official Notice)). However, Desai fails to disclose simultaneously receiving and seamlessly incorporating the first and second streams. Chen teaches that inserting commercials into streams requires a number of time-consuming steps that must be implemented with additional hardware (Chen: column 1, lines 40-50). To help alleviate this problem, Chen discloses "simultaneously receiving a second video stream" (Chen: figure 4, wherein the second stream is the insertion stream) and "seamlessly incorporating the first and second stream" (Chen: column 6, lines 48-54). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Desai and add the processing taught by Chen in order to obtain an apparatus that operates more efficiently by reducing the time needed to insert commercials into a stream.

Regarding claims 4 and 11, Desai discloses "the second video program is a video commercial" (Desai: column 4, lines 5-12).

Regarding claims 5-7 and 12-14, although not disclosed, it would have been obvious to provide the video data such as a news program from a network feed and local video program (Official Notice). Doing so would have been obvious in order to make the system more versatile by being able to transmit video to a user if one of the local/network feeds is down.

Regarding claims 8 and 15, although not disclosed, it would have been obvious to transmit the data via satellite (Official Notice). Doing so would have been obvious in order to obtain an apparatus that can safely and reliably transmit data.

Claims 3, 9-10, 16-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desai et al. (6034746), (hereinafter referred to as "Desai") in view of Chen et al. (5917830), (hereinafter referred to as "Chen") in further view of Sakamoto et al. (6026164), (hereinafter referred to as "Sakamoto").

Regarding claims 3 and 10, note the examiners rejection for claim 1, and in addition, claims 3 and 10 differ from claim 1 in that claims 3 and 10 further require upconverting the video data. Sakamoto teaches that it is difficult to effect scrambling without changing the code length (Sakamoto: column 2, lines 1-3). To help alleviate this problem, Sakamoto discloses "upconverting the decoded second resolution data" (Sakamoto: figure 9, wherein the upconverting is the up-sampling). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the upconverting taught by

Sakamoto in order to obtain an apparatus that operates more efficiently by being able to scramble the data and keep the code length constant.

Regarding claim 9, note the examiners rejection for claim 1 and in addition Sakamoto further discloses "decoding the video program to provide a decoded first resolution data and a decoded second resolution data" (Sakamoto: figure 9, wherein the first resolution data is the HDTV data and the second resolution data is the SDTV data).

Regarding claims 16-17, Sakamoto discloses "storing data in a buffer" (Sakamoto: figure 9).

Regarding claim 18, Sakamoto discloses "the buffer is MPEG compliant" (Sakamoto: figure 9, column 1, lines 47-49).

Regarding claim 20, note the examiners rejection for claims 1 and 4.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Czekaj whose telephone number is (571) 272-7327. The examiner can normally be reached on Monday - Friday 9 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DJC

  
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TC 2600